

108TH CONGRESS
2D SESSION

S. 2917

To amend the National Aeronautics and Space Act of 1958 to establish a centennial challenge program and establish a National Aeronautics and Space Foundation.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 2004

Mr. BROWNBACK (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the National Aeronautics and Space Act of 1958 to establish a centennial challenge program and establish a National Aeronautics and Space Foundation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CENTENNIAL CHALLENGE PROGRAM.**

4 Title III of the National Aeronautics and Space Act
5 of 1958 (42 U.S.C. 2451 et seq.), is amended by adding
6 at the end the following:

1 **“SEC. 316. AUTHORITY FOR COMPETITIVE PRIZE AWARD**
2 **PROGRAM TO ENCOURAGE DEVELOPMENT**
3 **OF ADVANCED SPACE AND AERONAUTICAL**
4 **TECHNOLOGIES.**

5 “(a) PROGRAM AUTHORIZED.—The Administrator
6 may carry out a program, known as the Centennial Chal-
7 lenge Program, to award prizes to stimulate innovation in
8 basic and applied research, technology development, and
9 prototype demonstration that have the potential for appli-
10 cation to the performance of the space and aeronautical
11 activities of the Administration.

12 “(b) PROGRAM REQUIREMENTS.—

13 “(1) COMPETITIVE PROCESS.—Recipients of
14 prizes under the program under this section shall be
15 selected through one or more competitions conducted
16 by the Administrator.

17 “(2) ADVERTISEMENT OF COMPETITIONS.—The
18 Administrator shall widely advertise any competi-
19 tions conducted under the program.

20 “(c) REGISTRATION; ASSUMPTION OF RISK.—

21 “(1) REGISTRATION.—Each potential recipient
22 of a prize in a competition under the program under
23 this section shall register for the competition.

24 “(2) ASSUMPTION OF RISK.—In registering for
25 a competition under paragraph (1), a potential re-
26 cipient of a prize shall assume any and all risks, and

1 waive claims against the United States Government
2 and its related entities (including contractors and
3 subcontractors at any tier, suppliers, users, cus-
4 tomers, cooperating parties, grantees, investigators,
5 and detailees), for any injury, death, damage, or loss
6 of property, revenue, or profits, whether direct, indi-
7 rect, or consequential, arising from participation in
8 the competition, whether such injury, death, dam-
9 age, or loss arises through negligence or otherwise,
10 except in the case of willful misconduct.

11 “(d) BUDGETING AND AWARDING OF FUNDS.—

12 “(1) AVAILABILITY OF FUNDS.—Any funds ap-
13 propriated to carry out this section shall remain
14 available until expended, but for not more than 4
15 fiscal years.

16 “(2) DEPOSIT AND WITHDRAWAL OF FUNDS.—

17 When a prize is offered, the total amount of funding
18 made available for that prize shall be deposited in
19 the Centennial Challenge Trust Fund. If funding ex-
20 pires before a prize is awarded, the Administrator
21 shall deposit additional funds in the account to en-
22 sure the availability of funding for all prizes. If a
23 prize competition expires before its goals are met,
24 the Administrator may redesignate those funds for a
25 new challenge, but any redesignated funds will be

1 considered as newly deposited for the purposes of
 2 paragraph (3). All cash awards made under this sec-
 3 tion shall be paid from that account.

4 “(3) OVERALL LIMIT.—The Administrator may
 5 not deposit more than \$25,000,000 annually in the
 6 Centennial Challenge Trust Fund.

7 “(4) MAXIMUM PRIZE.—No competition under
 8 the program may result in the award of more than
 9 \$1,000,000 in cash prizes without the approval of
 10 the Administrator.

11 “(e) RELATIONSHIP TO OTHER AUTHORITY.—The
 12 Administrator may exercise the authority in this section
 13 in conjunction with or in addition to any other authority
 14 of the Administrator to acquire, support, or stimulate
 15 basic and applied research, technology development, or
 16 prototype demonstration projects.”.

17 **SEC. 2. NATIONAL AERONAUTICS AND SPACE FOUNDATION.**

18 Title III of the National Aeronautics and Space Act
 19 of 1958 (42 U.S.C. 2451 et seq.), as amended by section
 20 1, is amended by adding at the end the following:

21 **“SEC. 317. NATIONAL AERONAUTICS AND SPACE FOUNDA-**
 22 **TION.**

23 “(a) IN GENERAL.—There is established a charitable
 24 and nonprofit corporation to be known as the National
 25 Aeronautics and Space Foundation.

1 “(b) PURPOSES.—The purposes of the foundation
2 are—

3 “(1) to encourage private gifts of real and per-
4 sonal property or any income therefrom or other in-
5 terest therein for the benefit of, or in connection
6 with, NASA, its activities, or its services; and

7 “(2) to further the public’s knowledge of and
8 inspiration by the Earth, the Earth’s atmosphere,
9 space, and celestial bodies in space, for current and
10 future generations of Americans.

11 “(c) BOARD OF DIRECTORS.—

12 “(1) IN GENERAL.—The Foundation shall be
13 governed by a board of directors of 6 individuals ap-
14 pointed by the Administrator, in consultation with
15 the chairman and ranking member of the Senate
16 Committee on Commerce, Science, and Transpor-
17 tation and of the House of Representatives Com-
18 mittee on Science. The Administrator shall designate
19 1 member to serve as chair.

20 “(2) TERM OF OFFICE.—Each member shall
21 serve for a term of 6 years, except that of the mem-
22 bers first appointed to the board—

23 “(A) 1 member shall be appointed for a
24 term of 1 year;

1 “(B) 1 member shall be appointed for a
2 term of 2 years;

3 “(C) 1 member shall be appointed for a
4 term of 3 years;

5 “(D) 1 member shall be appointed for a
6 term of 4 years;

7 “(E) 1 member shall be appointed for a
8 term of 5 years; and

9 “(F) 1 member shall be appointed for a
10 term of 6 years.

11 “(3) VACANCIES.—An individual appointed to
12 fill a vacancy occurring other than by the expiration
13 of a term shall be appointed for the remainder of the
14 term of the former member the individual succeeds.

15 “(4) STATUS.—Membership on the Board shall
16 not be deemed to be an office within the meaning of
17 the statutes of the United States.

18 “(5) ADMINISTRATOR TO SERVE EX OFFICIO.—
19 The Administrator shall be a member of the board
20 ex officio but without the right to vote.

21 “(6) BY-LAWS.—Upon the appointment and
22 qualification of all members of the board, the board
23 may by majority vote adopt by-laws, adopt an offi-
24 cial seal (which shall be judicially recognized), and
25 establish a schedule for meetings and a mechanism

1 for calling non-scheduled meetings. Except as pro-
2 vided in the preceding sentence and unless modified
3 by the Board—

4 “(A) a majority of the members serving
5 shall constitute a quorum; and

6 “(B) the board shall meet at least once
7 each year and at the call of the chair.

8 “(7) COMPENSATION AND EXPENSES.—No
9 compensation shall be paid to the members of the
10 Board for their services as members, but they shall
11 be reimbursed for actual and necessary traveling and
12 subsistence expenses incurred by them in the per-
13 formance of their duties as such members out of
14 Foundation funds available to the Board for such
15 purposes.

16 “(d) POWERS AND DUTIES.—

17 “(1) IN GENERAL.—Except as otherwise pro-
18 vided in this section, the Foundation shall have the
19 powers of, and be subject to the limitations of, a
20 charitable and nonprofit corporation provided under
21 the laws of the State (or the District of Columbia)
22 in which it is incorporated.

23 “(2) PERPETUAL SUCCESSION; MEMBER LIABIL-
24 ITY.—The Foundation shall have perpetual succes-
25 sion, with all the usual powers and obligations of a

1 corporation acting as a trustee, including the power
2 to sue and to be sued in its own name, but the mem-
3 bers of the Board shall not be personally liable, ex-
4 cept for malfeasance.

5 “(3) CONTRACTS; GRANTS; OTHER INSTRU-
6 MENTS.—The Foundation shall have the power to
7 enter into contracts or grants, to execute instru-
8 ments, and generally to do any and all lawful acts
9 necessary or appropriate to its purposes as approved
10 by the board.

11 “(4) GIFTS; DEVISES; BEQUESTS.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the Foundation may accept,
14 receive, solicit, hold, administer, and use any
15 gifts, devises, or bequests, either absolutely or
16 in trust, of real or personal property or any in-
17 come therefrom or other interest therein for the
18 benefit of or in connection with, NASA, its ac-
19 tivities, or its services, including a gift, devise,
20 or bequest that is encumbered, restricted, or
21 subject to beneficial interests of private persons
22 if any current or future interest therein is for
23 the benefit of NASA, its activities, or its serv-
24 ices. For purposes of this paragraph, an inter-
25 est in real property includes easements or other

rights for preservation, conservation, protection,
or enhancement by and for the public of nat-
ural, scenic, historic, scientific, educational, in-
spirational, or recreational resources.

“(B) LIMITATION.—The Foundation may
not accept a gift, devise, or bequest which en-
tails any expenditure other than from the re-
sources of the Foundation.

“(e) TAX STATUS AND FUNCTIONS.—

“(1) TAX-EXEMPT STATUS OF FOUNDATION.—

The Foundation and any income or property re-
ceived or owned by it, and all transactions relating
to such income or property, shall be exempt from all
Federal, State, and local taxation with respect there-
to.

“(2) IN-LIEU-OF PAYMENTS.—The Foundation
may, in the discretion of the board—

“(A) contribute toward the costs of local
government in amounts not in excess of those
which it would be obligated to pay such govern-
ment if it were not exempt from taxation under
paragraph (A) or by virtue of its being a chari-
table and nonprofit corporation; and

“(B) may contribute with respect to prop-
erty transferred to it and the income derived

1 therefrom if such agreement is a condition of
2 the transfer.

3 “(3) DEDUCTIBILITY OF CONTRIBUTIONS TO
4 FOUNDATION.—Gifts and other transfers made to or
5 for the use of the Foundation shall be regarded as
6 contributions, gifts, or transfers to or for the use of
7 the United States.

8 “(f) COOPERATIVE WORK WITH NASA.—

9 “(1) NASA SUPPORT CONTRACTS.—The Ad-
10 ministrators may contract with the Foundation for
11 the performance of its duties and activities in sup-
12 port of the Administration.

13 “(2) NASA MAY NOT ACCEPT FUNDS FROM
14 FOUNDATION.—Neither NASA nor any employee
15 thereof may be authorized to accept funds from the
16 Foundation.

17 “(3) FOUNDATION FUNDING MAY NOT SUPPLE-
18 MENT APPROPRIATED FUNDS ACTIVITIES.—Except
19 as otherwise specifically provided by statute, the
20 Foundation may not obligate or expend funds to di-
21 rectly supplement any program or activity of NASA,
22 or any other Federal agency, for which appropriated
23 funds may be obligated or expended.

24 “(g) DEFINITIONS.—In this section:

1 “(1) ADMINISTRATOR.—The term ‘Adminis-
2 trator’ means the Administrator of the National
3 Aeronautics and Space Administration.

4 “(2) BOARD.—The term ‘board’ means the
5 board of directors of the Foundation.

6 “(3) FOUNDATION.—The term ‘Foundation’
7 means the National Aeronautics and Space Founda-
8 tion established by subsection (a).

9 “(4) NASA.—The term ‘NASA’ means the Na-
10 tional Aeronautics and Space Administration.”.

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